



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

1595 WYNKOOP STREET  
DENVER, CO 80202  
Phone 800-227-8917

<http://www.epa.gov/region08>

**AUG 10 2009**

Ref: 8EPR-N

Ms. Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E. Room 1A  
Washington D.C. 20426

Re: Draft Environmental Impact Statement for  
the Ruby Pipeline Project CEQ # 20092532  
Docket No. CP09-54-000

Dear Ms. Bose:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA), 42 U.S.C. Section 4321, et. seq., and Section 309 of the Clean Air Act, 42 U.S.C. Section 7609, the U.S. Environmental Protection Agency Region 8 (EPA) has reviewed the Draft Environmental Impact Statement (Draft EIS) prepared by the Federal Energy Regulatory Commission (FERC) for construction and operation of the interstate Ruby pipeline and associated facilities located in Wyoming, Utah, Nevada, and Oregon.

The pipeline and associated facilities proposed and operated by Ruby Pipeline, L.L.C. (Ruby) would add 1.5 million dekatherms per day of natural gas transportation capacity to meet growing demands for natural gas along the Pacific Northwest. The proposed project would involve the construction and operation of approximately 677.8 miles of 42 - inch diameter pipeline and associated aboveground facilities. Associated aboveground facilities include 4 metering stations, 5 communication towers, 20 pig launchers/receivers, and 44 main line valves, and 160,500 horsepower of new compression. Construction of the proposed project would disturb approximately 24,934 acres of land. Forty-two percent of the land affected by construction and operation of the proposed project is privately-owned. Of this disturbance, 20.666 acres would be restored and allowed to revert to former use. Approximately 68 percent of the pipeline would be constructed on new right-of-way with a 115-foot construction right-of-way and a 50-foot wide permanent right-of-way.

The Draft EIS considers a number of various alternatives including: no action, postponed action, alternative energy sources, energy conservation, system alternatives, route variations, and aboveground facility site alternatives. The majority of these alternatives were dismissed from further comprehensive analysis with the exception of three route alternatives. Following a broad analysis, three major route alternatives have been incorporated into the project. The only action alternative to be analyzed in detail was the proposed action with fifteen FERC-recommended minor route changes to avoid environmentally-sensitive resources.



Generally, EPA encourages development of proposed pipelines and transmission lines in existing corridors. However as FERC notes in the Draft EIS, the Sheldon and Black Rock route alternatives, which were identified by resource agencies, each have reduced impacts on high quality greater sage-grouse habitat, as well as Northern Paiute tribal resources, than Ruby's proposed alternative. EPA supports FERC's effort to avoid these additional impacts.

In completing our review, EPA has identified three primary concerns which are outlined in this letter: 1) the need for greater detail, explanation and environmental impact analysis for the pipeline crossings at perennial waters; 2) impacts due to hydrostatic pipeline testing; and 3) impacts to wetlands.

#### Water crossings

The proposed project would cross 105 perennial waterbodies, 520 intermittent waterbodies, 287 ephemeral streams, and numerous lakes, ponds, and canals occurring in ten major watershed basins. The perennial water body crossings include 77 waterbodies and 10 shorelines which would be considered sensitive because of the presence of special status species.

In addition, the Bear River water crossing is considered major because it would cross an area greater than 100 feet and Ruby proposes a site-specific crossing plan. Ruby proposes to cross all perennial waterbodies using the open cut method. The greatest potential impact on surface waters would result from sedimentation and the Draft EIS includes a number of mitigation measures to address these potential impacts. However, it is unclear from the discussion in the Draft EIS if the mitigation measures suffice or if another construction method might better mitigate the potential impacts.

Given the numerous threatened and endangered species supported by the ten affected watersheds and the potential for increased sedimentation, EPA recommends the Final EIS include a more detailed and robust impact analysis of other potential river crossing methods such as horizontal directional drilling (HDD). Pipeline open cut crossings may create hardened areas in the river bottom, which result in adverse affects by changing the channel and stream bank morphology and affecting the aquatic population. It is EPA's experience that the open cut method has the highest potential for water quality impacts when compared to the HDD method. EPA understands that the open cut method is usually the least costly to undertake, but weighted against other factors it may not be the most desired.

#### Hydrostatic Pipeline Testing

Ruby would require approximately 327 million gallons of water for construction operations and hydrostatic testing of the proposed pipeline. Water would be withdrawn from the a combination of groundwater and surface waters through specific agreements with water-right owners and in accordance with federal, state, and local regulations and permits. Ruby has committed to discharging all water within the same drainage basin from which it is taken. EPA supports this commitment as it reduces the potential for the transfer of water-borne pathogens and nuisance organisms. EPA's remaining concern is that the Final EIS analyze, disclose and ultimately, address mitigation measures for the potential adverse impacts on six federally-listed



endangered and threatened species and critical habitat for one federally-petitioned or candidate species.

The project area of review supports a number of threatened and endangered species. In Section 4.7, the Draft EIS acknowledges FERC's determination that the proposed project may adversely affect thirteen federally listed endangered and threatened species and their designated critical habitat. The species potentially adversely affected include: the black-footed ferret, lahontan cutthroat trout, four endangered Colorado River fishes, the Warner sucker, the slender Orcutt grass and Greene's Tuctoria, the Ute ladies'-tresses, the greater sage-grouse the yellow-billed cuckoo, the pygmy rabbit, the white-tailed prairie dog, the northern leatherside chub, and the Columbia spotted frog. FERC has determined that Ruby submit a Biological Assessment to the U.S. Fish and Wildlife Service. EPA recommends the Final EIS include the Biological Opinion of the U.S. Fish and Wildlife Service and all measures that will be required of Ruby to mitigate these potential adverse impacts.

### Wetlands

As noted in the Draft EIS, wetlands can be a source of substantial biodiversity and serve a variety of functions including wildlife habitat, naturally improving water quality and providing flood control. Construction of the proposed pipeline route would disturb 159 wetlands, the majority of which fall under the jurisdiction of the U.S. Army Corps of Engineers. Ruby would minimize impacts on these wetlands by complying with the U.S. Army Corps of Engineers Section 404 permit conditions and implementing a series of compensatory mitigation measures.

EPA generally supports FERC's recommendation that Ruby file a revised wetland restoration plan prior to the close of the draft EIS comment period, however EPA has not been given an opportunity to access and review this important plan. We have reviewed Ruby's proposed mitigation measures and offer the following recommendations. Re-establishing wetlands and their functions can be very challenging; EPA recommends that wetland restoration be monitored for a minimum of five years after construction, rather than the three years proposed by Ruby (page 4-54). In addition, the wetlands monitoring should include inspection and monitoring for invasive species. Finally, EPA recommends FERC and Ruby provide additional discussion and explanation on the decision to locate the temporary extra workspaces up to the edge and through both wetland crossings. EPA agrees with FERC's recommendation that Ruby provide a 50-foot natural buffer around the wetland boundaries.

### EPA's Rating

Consistent with Section 309 of the Clean Air Act, it is EPA's responsibility to provide an independent review and evaluation of the potential environmental impacts of this project. Based on the procedures EPA uses to evaluate the adequacy of the information and the potential environmental impacts of the proposed action, EPA is rating this Draft EIS as Environmental Concerns – Insufficient Information (EC-2). The "EC" rating indicates that the EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. The "2" rating indicates that EPA has identified additional information, data,

analyses or discussion that should be included in the Final EIS. A full description of EPA's EIS rating system is enclosed.

If you have any questions regarding our comments or this rating, please contact me at 303-312-6004 or James Hanley of my staff at 303-312-6725.

Sincerely,

A handwritten signature in dark ink, appearing to read "Larry Svoboda". The signature is fluid and cursive, with the first name "Larry" being more prominent than the last name "Svoboda".

Larry Svoboda  
Director, NEPA Program  
Office of Ecosystems Protection and Remediation

Copy: FERC Gas Branch 1, PJ-11.1

Enclosure



## **U.S. Environmental Protection Agency Rating System for Draft Environmental Impact Statements**

### **Definitions and Follow-Up Action\***

#### **Environmental Impact of the Action**

**LO - - Lack of Objections:** The Environmental Protection Agency (EPA) review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

**EC - - Environmental Concerns:** The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce these impacts.

**EO - - Environmental Objections:** The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no-action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

**EU - - Environmentally Unsatisfactory:** The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

#### **Adequacy of the Impact Statement**

**Category 1 - - Adequate:** EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis of data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

**Category 2 - - Insufficient Information:** The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new, reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses or discussion should be included in the final EIS.

**Category 3 - - Inadequate:** EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the National Environmental Policy Act and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

\* From EPA Manual 1640 Policy and Procedures for the Review of Federal Actions Impacting the Environment. February, 1987.